

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

GWACS ARMORY, LLC)	
)	
Plaintiff,)	
)	
v.)	
)	Case No.:20-cv-0341-CVE-SH
KE ARMS, LLC, RUSSELL PHAGAN,)	BASE FILE
SINISTRAL SHOOTING)	
TECHNOLOGIES, LLC, BROWNELLS,)	Consolidated with:
INC., and SHAWN NEALON,)	Case No. 21-CV-0107-CVE-JFJ
)	
Defendants.)	
and)	
)	
KE ARMS, LLC,)	
Plaintiff,)	
v.)	
GWACS ARMORY, LLC, GWACS)	
DEFENSE INCORPORATED, JUD)	
GUDGEL, RUSSEL ANDERSON, DOES I)	
through X, and ROE CORPORATIONS I)	
through X,)	
Defendants.)	

**DECLARATION OF BRIAN R. HARDY, ESQ. IN SUPPORT OF DEFENDANTS’
OPPOSED MOTION TO CONTINUE TRIAL AND AMEND SCHEDULING ORDER**

Brian R. Hardy, Esq. declares as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called up-on.

2. I am duly licensed to practice law in the State of Nevada and have been admitted to practice *pro hac vice* in this case. I am a shareholder in the law firm of Marquis Aurbach, counsel for Defendants KE Arms, LLC, Russell Phagan, Sinistral Shooting Technologies, LLC, Brownell's Inc., and Shawn Nealon (collectively "Defendants") in the above-entitled matter.

3. I am currently serving as lead counsel for Defendants in this present matter before the Court.

4. I have served as lead counsel for Defendants from the inception of this case, and therefore have unique knowledge and understanding of this case that is indispensable to Defendants' interests at trial.

5. I have preexisting contractual commitments to current clients in Nevada, for whom I also serve as lead counsel, and these preexisting commitments will prevent me from attending the trial for this present matter, which is scheduled for November 21, 2022.

6. Specifically, I am retained as lead counsel for one of the major political parties in the state of Nevada. My engagement with this client predates the inception of this current matter.

7. The 2022 Nevada state general elections will take place on November 8, 2022.

8. On that date, the State of Nevada will hold elections for the following offices: Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Controller, U.S. Senate, U.S. House of Representatives, Nevada Senate, Nevada Assembly, and various others offices.

9. Due to the potentially contentious nature of this election and the importance of these mid-term elections in Nevada, I am compelled to be physically present in Nevada during the weeks

preceding and following the November 8, 2022 elections in order to attend to various election related matters that naturally arise out of such elections.

10. Notably, in Nevada I will be responsible for overseeing and coordinating efforts relative to the foregoing on behalf of both the state party and the national party:

DATE(S)	EVENT	STATUTORY SUPPORT
OCT. 22, 2022 through NOV. 4, 2022	<u>EARLY VOTING BY PERSONAL APPEARANCE</u> – (begins the 3 rd Saturday before the General Election through the Friday preceding the General Election) During this period, a registered voter may request to vote early in person at designated Early Voting locations.	NRS 293.3568
OCT. 24, 2022	<u>VERIFICATION AND COUNTING OF MAIL BALLOTS MAY BEGIN</u> – (not earlier than 15 days before the General Election) The counting board, if it is responsible for counting mail ballots, or mail ballot central counting board shall ascertain that each box or container has the required number of ballots. Ballots delivered to and mail ballot central counting board shall be processed and prepared for counting	AB 321 Sec. 13(1)
NOV. 8, 2022	<u>GENERAL ELECTION</u> – (1st Tuesday after the 1st Monday in November in each even-numbered year) The General Election is held. Polls open at 7 a.m. and close at 7 p.m.	NRS 293.12755 NRS 293.273(1)
NOV. 11, 2022	<u>IDENTIFICATION REQUIREMENT FOR PROVISIONAL VOTERS</u> – (not later than 5 p.m. the Friday following the election) Last day a voter who did not provide identification at the time the provisional ballot was cast for the federal office at the General Election can provide identification to the County Clerk/Registrar of Voters.	NRS 293.3082(1)
NOV. 12, 2022	<u>RETURN OF MAIL BALLOTS</u> – (by 5 p.m. on the 4th day following the General Election) In order for a mail ballot to be counted for any election, the mail ballot must be delivered by hand to the county clerk, or any ballot drop box, by the close of polls; or mailed to the county clerk and postmarked on or before the day of the election and received by the clerk not later than 5 p.m. on the fourth day following the election.	NRS 293.325 NRS 293.317 AB 321 (Sec. 11(6))

NOV. 14, 2022	<u>SIGNATURE CURE DEADLINE</u> – (not later than 5 p.m. on the 6th day following the election) Last day for a voter to provide a signature or confirmation or to otherwise cure the signature to have a mail ballot be counted.	AB 321 Sec. 11(6)
NOV. 17, 2022	<u>POSTELECTION AUDIT AND CERTIFICATION</u> – (not later than 7 working days after the election) After each election, County Clerks/Registrars of Voters shall conduct postelection audits and transmit the results to the Secretary of State.	NAC 293.255
NOV. 18, 2022	<u>CANVASS OF THE GENERAL ELECTION RETURNS</u> – (on or before the 10th working day following the General Election) During this period the Board of County Commissioners shall canvass the returns, from all precincts and districts within the county, of the General Election. Counties must wait until the post-mark receipt date and provisional ballots have been processed.	293.387(1)
NOV. 22, 2022	<u>ELECTION CONTEST FOR LOCAL CANDIDATES IF NO RECOUNT DEMANDED</u> – (no later than 14 days after the election) For contests involving offices other than for Governor, Lt. Governor, Legislator, Justice of the Supreme Court or Judge of the Court of Appeals, the last day to file a statement of contest with the District Court Clerk if no recount is demanded.	NRS 293.413(2)
NOV. 22, 2022	<u>ELECTION CONTEST FOR STATEWIDE CANDIDATES IF NO RECOUNT DEMANDED</u> – (no later than 14 days after the election) For contests involving offices for Governor, Lt. Governor, Legislator, Justice of the Supreme Court or Judge of the Court of Appeals, the last day to file a statement of contest with the Secretary of State if no recount is demanded.	NRS 29.413(2) NRS 293.425(1)
NOV. 22, 2022	<u>MEMBERS OF SUPREME COURT TO CANVASS VOTES</u> – (the 4th Tuesday in November) On this date, the Justices of the Supreme Court, or a majority thereof, shall meet with the Secretary of State to canvass the vote.	NRS 293.395(2)
NOV. 25, 2022	<u>DEMAND FOR RECOUNTS</u> – (within 3 working days after the canvass for the General Election) The last day demand for recount for the General Election can be made. Please see NRS 293.400 through 293.435 for dates and filing deadline	NRS 293.403

DEC. 15, 2022	<u>FILE AMENDED STATEMENTS OF CONTEST</u> – (on or before Dec. 15 of the year immediately preceding a regular legislative session) For an election contest involving the office of Legislator, the contestant may file an amended statement of contest and any relevant depositions, ballots, and other documents relating to the contest with the Secretary of State.	NRS 293.425
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11. Attending to these matters, to which I am contractually and ethically bound, will prevent me from adequately preparing for and attending trial in this matter under the current schedule, and will consequently prevent me from adequately protecting the Defendants' interest in this case.

12. In order to adequately protect the Defendants' interests and fulfill my obligations to other clients, I file this motion and respectfully ask this Court to continue this trial.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ 
 Brian Hardy